

AGENDA

**RIO DELL PLANNING COMMISSION
REGULAR MEETING
WEDNESDAY, JANUARY 25, 2012 - 6:30 PM
CITY COUNCIL CHAMBERS
675 WILDWOOD AVENUE, RIO DELL**

WELCOME . . . By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the City Council are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City government welcomes your interest and hopes you will attend and participate in Rio Dell City Council meetings often.

THE TYPE OF COMMISSION BUSINESS IS IDENTIFIED IMMEDIATELY AFTER EACH TITLE IN BOLD CAPITAL LETTERS.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CEREMONIAL

E. CONSENT CALENDAR

- 1) 2012/0125.01 - Approve Minutes of the December 14, 2011 Regular Meeting
(ACTION)

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F. PUBLIC PRESENTATIONS

This time is for persons who wish to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. Items requiring Commission action not listed on this agenda will be placed on the next regular agenda for consideration, unless a finding is made by at least 4/5ths of the Commission that the item came up after the agenda was posted and is of an urgency nature requiring immediate action.

G. SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS

- 1) 2012/0125.02 - Approve Resolution No. PC 047-2012 Recommending that the City Council Amend Section 17.30.130 of the Rio Dell Municipal Code (RDMC) by Establishing Lot Size Modification Provisions
(ACTION)

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2) 2012/0125.03 - Approve Resolution No. PC 048-2012 Recommending that the City Council Amend Yard Regulations, Section 17.30.280 of the Rio Dell Municipal Code (RDMC) **(ACTION)** 18

3) 2012/0125.04 - Discussion on Fencing Regulations **(RECEIVE & FILE)**

4) 2012/0125.05 - Approve Content of Draft Animal Control Ordinance and Schedule Review of Fees and Penalties for February 2012. **(ACTION)** 30

H. REPORTS/STAFF COMMUNICATIONS

I. ADJOURNMENT

*The next Regular Planning Commission meeting is scheduled for
February 22, 2012 at 6:30 p.m. in the City Council Chambers*

**CITY OF RIO DELL
PLANNING COMMISSION
REGULAR MEETING
DECEMBER 14, 2011**

CALL TO ORDER

The Regular meeting of the Rio Dell Planning Commission was called to order at 6:30 p.m. by Planning Commissioner Gonzales.

Present were Commissioners Gonzales, Millington, and Johnson. Absent was Commissioner Chapman.

Others present were Community Development Director Caldwell and City Clerk Dunham.

CEREMONIAL

Accept Resignation of Commissioner Sweaney and Receive Update on Vacancy Appointment

Community Development Director Caldwell reported that two applicants for the vacant position on the Planning Commission were interviewed at the December 6, 2011 regular City Council meeting. He said there were four City Council members present at that meeting and the vote to fill the vacancy resulted in a tie vote. The Council directed staff to bring the matter back to the Council for a re-vote with a full Council.

CONSENT CALENDAR

Motion was made by Johnson/Millington to approve the consent calendar including the approval of minutes of the November 2, 2011 regular meeting.

Commissioner Millington pointed out two misspelled words contained in the minutes as submitted; City Clerk Dunham acknowledged the errors and said she would make the corrections as noted.

Motion then carried 3-0.

PUBLIC PRESENTATIONS

None

SCHEDULED MATTERS/PUBLIC HEARINGS

**PLANNING COMMISSION
DECEMBER 14, 2011 MINUTES
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Resolution No. PC-045-2011 Recommending Amending the Urban Residential (UR) and Suburban Residential (SR) Zones, Sections 17.20.020 and 17.20.030(2)(b) Respectively of the Rio Dell Municipal Code (RDMC) by Removing Home Occupations as Conditionally Permitted Uses

Community Development Director Caldwell stated that it was recently brought to his attention that Home Occupations require a Conditional Use Permit in the Urban Residential and Suburban Residential zones, whereas the Home Occupation provisions of the Rio Dell Municipal Code (RDMC) under Section 17.25.080 clearly allows Home Occupations as an accessory use in residential zones. Past practice has been to approve Home Occupations in all residential zones provided they meet the prescribed development standards as principally permitted uses. As a result, staff is recommending amending 17.20.020(2)(a) and 17.20.030(2)(b) of the RDMC by removing Home Occupations as conditionally permitted uses.

Commissioner Millington asked if this is required by State law; Community Development Director Caldwell said that it is not required by State law but if a business can qualify as a Home Occupation and meet the minimum performance standards, a Home Occupation may be permitted as appurtenant and accessory uses to any residential use.

Commissioner Gonzales referred to Item (k) under Home Occupation performance standards which states there shall be no signs, nameplates, or other advertising affixed to the premises, and asked if a small sign could be allowed such as to advertise for piano lessons. Community Development Caldwell stated special considerations or exceptions may be granted by the Planning Commission provided the use is compatible with the neighborhood.

Commissioner Millington asked if the word “affixed” has a special meaning and asked if it would be allowed to place a temporary sign such as “Puppies for Sale.” Community Development Caldwell stated that normally “affixed to premises” means affixed to a building but not the lawn although it could be interpreted either way. He said that is when common sense comes into play and normally staff would make the determination, or if necessary the Planning Commission.

A public hearing was opened at 6:42 p.m. to receive public comment on the proposed resolution. There being no public present, the public hearing closed.

Motion was made by Millington/Johnson to approve *Resolution No. PC 045-2011 Recommending Amending the Urban Residential (UR) and Suburban Residential (SR)*

**PLANNING COMMISSION
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Zones, Sections 17.20.020 and 17.20.030(2)(b) Respectively of the Rio Dell Municipal Code (RDMC) by Removing Home Occupations as Conditionally Permitted Uses.
Motion carried 3-0.

Resolution No. PC 046-2011 Recommending Amending the Second Dwelling Unit Regulations, Section 17.25.180 of the Rio Dell Municipal Code (RDMC)

Community Development Caldwell stated at the September 28, 2011 Joint Study Session with the City Council and the Planning Commission, staff was directed to amend the existing second unit regulations to be consistent with State law and allow an exception process for certain performance standard requirements.

He reviewed the existing provisions for second dwelling units and the recommended changes. The first revision was to change all references of "Planning Secretary" to "Planning Department." Caldwell said the current provisions state that one of the dwelling units on the site must be owner-occupied; his recommendation was to revise the language to read "The owner of the property does not have to live on a lot where a second dwelling unit is located."

The next proposed revision was to change the 6,000 minimum square foot lot size to 5,000 square feet since the minimum lot size in the previous R-1 designation was 5,000. He also recommended that the provision that states that the size of the second dwelling unit shall not exceed 50 percent of the size of the primary dwelling unit up to a maximum of 1,200 square feet be eliminated for those parcels that are large enough to be subdivided, provided the applicant submits a Development Plan demonstrating that the parcel could be subdivided and both residences can be sited on separate parcels and meet setback and lot coverage requirements of the zone.

Community Development Director Caldwell further stated that the current provision disallowing manufactured/mobile homes as a second dwelling unit is contrary to case law thus recommending that provision be eliminated.

Discussion continued regarding the maximum building height for detached second dwelling units which is currently 35 feet except for those units located within any portion of a required rear yard setback which shall not exceed one-story or 16 feet in height, whichever is less. Caldwell suggested that provision be revised to simply read "The maximum building height of detached second dwelling units on lots that cannot be subdivided shall be 24 feet."

Commissioner Johnson commented that a 24 foot building height does not give a lot of leverage stating that you could have an older 2-story home and it may be difficult to match 10 foot interior walls with that restriction.

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Community Development Director Caldwell stated that he could convey to the City Council that the desire of the Planning Commission is that the maximum building height for lots that cannot be subdivided remain at 35 feet.

Next was discussion on the orientation of the front door for second dwelling units and whether the door should be visible from the street.

Commissioner Gonzales was concerned that door orientation restrictions may limit creativity. Commissioner Millington stated in every single situation it is what suits that particular property. She also commented that if a second dwelling unit is a mobile home, the front door should face the street or it will be sitting wrong on the lot.

Community Development Director Caldwell said he could strike that recommendation and relay to the City Council that it was discussed by the Planning Commission.

A public hearing was opened at 7:05 p.m. to receive public comment on the proposed resolution. There being no public present, the public hearing closed.

Commissioners concurred with the recommended revisions to the Second Dwelling Unit Provisions with the following exceptions:

- (4) (c) Eliminate the language that states "entrances for attached units shall not face the street."
- (4) (k) The maximum building height of detached second dwelling units on lots that cannot be subdivided shall be **35** feet.

Motion was made by Johnson/Millington to approve *Resolution No. PC 046-2011 Recommending Amending the Second Dwelling Unit Regulations, Section 17.25.180 of the Rio Dell Municipal Code (RDMC)* as revised. Motion carried 3-0.

REPORTS/STAFF COMMUNICATIONS

Community Development Director Caldwell reported on upcoming agenda items and stated he was contacted by Wally Wright on behalf of Andy Albin regarding plans for submittal of an application for a zone change from Community Commercial, to Urban Residential on the land located on Wildwood and Painter St.

Also coming forward for consideration will be regulations for cargo containers in the City, fencing regulations, and possibly the General Plan Amendment for Garyn Broussard.

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Commissioner Millington asked when the City expected to have an answer on the Todd Option Agreement stating that she was concerned about giving up the commercial strip on Painter St. in the event the Todd Option Agreement is not exercised. Community Development Director Caldwell stated we hoped to have an answer on the Option Agreement by December 16th which is prior to the next Planning Commission meeting where the Albin Zoning Amendment will be considered.

Community Development Director Caldwell also reported he was working on an approximate \$600,000 Transportation Enhancement Project including a Wildwood Ave. streetscape with bicycle lanes and beautification plan. He said there would be a stakeholders meeting held during the first part of January with property owners on Wildwood Ave. to get their input. At the same time they will be talking about redefining the commercial core on Wildwood.

ADJOURNMENT

The meeting adjourned at 7:33 p.m. to the January 25, 2012 regular meeting.

Attest:

Dave Gonzales, Chair

Karen Dunham, City Clerk


DRAFT


675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: January 25, 2012

To: Planning Commission

From: Kevin Caldwell, Community Development Director 

Through: Ron Henrickson, City Manager 

Date: January 5, 2012

Subject: Lot Size Modification Provisions

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding establishing Lot Size Modification Provisions;
2. Open the public hearing, receive public input and deliberate;
3. Adopt Resolution No. 47-2012 recommending that the City Council amend Section 17.30.130 of the Rio Dell Municipal Code (RDMC) by establishing lot size modification provisions.

Background and Discussion

It was recently brought to staff's attention that the City does not have lot size modification provisions. The Planning Commission and City Council's recent action reorganizing and reformatting Chapter 17 of the Rio Dell Municipal Code provided for the future inclusion of lot size modification provisions, Section 17.30.130 of the RDMC.

Procedures for Zoning Ordinance Amendments

Pursuant to Section 17.30.010 of the City of Rio Dell Municipal Code, the following City procedures are required to amend the Ordinance:

- An amendment may be initiated by one or more owners of property affected by the proposed amendment, as set out in Section 17.30.010(3), or by action of the Planning Commission, or the City Council.

- The application of one or more property owners for the initiation of an amendment shall be filed in the office of the City Clerk on a form provided, accompanied by a filing fee.
- Subject only to the rules regarding the placing of matters on the Planning Commission agenda, the matter shall be set for a public hearing.
- Notice of hearing time and place shall be published once in a newspaper of general circulation at least ten calendar days before the hearing or by posting in at least three public places.
- At the public hearing, the Planning Commission shall hear any person affected by the proposed amendment. The hearing may be continued from time to time.
- Within 40 days of the conclusion of the hearing, the Planning Commission shall submit to the City Council a written report of recommendations and reasons therefore.
- Subject only to the rules regarding the placing of matters on its agenda, the City Council, at its next regular meeting following the receipt of such report, shall cause the matter to be set for a public hearing. Notice of the time and place of the hearing shall be given as provided in Section 17.30.010(5), hereof.
- At the public hearing, the City Council shall hear any person affected by the proposed amendment. The hearing may be continued to a specified future date, but shall be concluded within 60 days of the commencement thereof.
- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

Required Findings

1. Section 65855 of the California Government Code (CGC) requires that any proposed ordinance or amendment be consistent and compatible with an overall comprehensive view of the General Plan and any implementation programs that may be affected.

Section 1.5 of the General Plan contains standards to be adopted allowing for lot size averaging. Below is a copy of the General Plan language:

“The City shall adopt the following General Plan standards:”

“The *standards for average **minimum** lot size* are designed to maintain the building intensity and population density requirements of the General Plan while allowing some flexibility in the sizes of new or adjusted lots. These standards include: the number of parcels created shall not exceed the total number of lots permitted by the land use designation; the number of primary residences or non-residential buildings shall not exceed the number permitted by the density or FAR requirements; and the lots meet the intent of the land use designation. For example in the Suburban designation, with a one acre minimum lot size and a density of one unit per acre, a ten acre subdivision could have no more than ten lots and not more than ten primary residences. Since the intent of the Suburban designation is to provide a mix of small scale agriculture with low density residential, attached housing would not be compatible with this designation.”

The proposed ordinance implementing lot size averaging provisions is not only consistent with the General Plan, but actually required by the General Plan.

2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).

The primary purpose of the California Environmental Quality Act (CEQA) is to inform the decision makers and the public of potential environmental effects of a proposed project. As part of the General Plan update the City prepared a Program Environmental Impact Report (PEIR) to evaluate the potential impacts associated with the General Plan. The proposed lot size modification provisions are consistent with an overall comprehensive view of the General Plan.

Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA.

Financial Impact

The City is responsible for the costs associated with the proposed ordinance. The cost is insignificant and will not result in additional budget expenditures or revisions.

Alternatives

The Planning Commission may choose not to recommend approval of the proposed ordinance. Staff does not recommend this alternative.

Attachments

Attachment 1: Recommended Lot Size Modification Provisions.

Attachment 2: Resolution No. 047 - 2012 recommending approval of the proposed amendments to the City Council.

Attachment 3: Draft Ordinance No. 283 – 2012 amending Section 17.30.130 of the Rio Dell Municipal Code (RDMC) by establishing lot size modification provisions.

Attachment 4: Pre-Adoption Summary for Posting.

Attachment 5: Post-Adoption Summary for Posting.

17.30.130 Lot Size Modifications

Exceptions to Lot Size, Lot Width and Lot Depth Standards. In order to better design and cope with difficulties due to topography and other natural or man-made features, minimum lot size, minimum lot width and maximum lot depth in all zones may be modified as specified in the following table, subject to securing a Use Permit:

EXCEPTIONS TABLE		
DEVELOPMENT STANDARD	PERMITTED MODIFICATIONS	LIMITATIONS
Minimum Lot Size	Minimum Lot Size Minimum Lot Size may be modified down to a maximum of fifty (50) percent, or 5,000 square feet, whichever is greater.	Such modification must be approved in conjunction with a subdivision or lot line adjustment. The total number of lots created by the subdivision shall not be more than that allowed by the applicable General Plan and zone designations.
Minimum Lot Width	Minimum Lot Width may be modified to a maximum of fifty (50) percent.	Minimum Lot Width shall not be modified below fifty (50) feet.
Maximum Lot Depth	Maximum Lot Depth may be modified up to a maximum of twice that permitted.	Maximum Lot Depth shall not be modified to exceed eight (8) times the lot width.



RESOLUTION NO. PC 047 - 2012

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
RECOMMENDING ESTABLISHING LOT SIZE MODIFICATION REGULATIONS, SECTION
17.30.130 OF THE RIO DELL MUNICIPAL CODE:**

WHEREAS the General Plan contains standards allowing lot size averaging; and

WHEREAS the City's Zoning Regulations have not been amended to implement the General Plan's lot size averaging provisions; and

WHEREAS many jurisdictions allow lot size averaging or lot size modifications based on a property owners desire and/or situation or due to topography and other natural or man-made features ; and

WHEREAS the utilization of lot size averaging will help promote infill development; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is deemed to be in the public interest; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed amendment has been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

WHEREAS the City has determined that the amendment is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rio Dell recommends that the City Council adopt Ordinance No. 283-2012 establishing Lot Size Modification regulations, Section 17.30.130 of the Rio Dell Municipal Code.

PASSED AND ADOPTED by the Planning Commission of the City of Rio Dell at their meeting of January 25, 2012 by the following vote:

I HEREBY CERTIFY that the forgoing Resolution was duly noticed, introduced and approved at a regular meeting of the Planning Commission of the City of Rio Dell on January 25, 2012 by the following vote:

AYES:	Commissioners:
NOES:	Commissioners:
ABSENT:	Commissioners:
ABSTAIN:	Commissioners:

Dave Gonzales, Chair

ATTEST:

Karen Dunham, City Clerk

ORDINANCE NO. 283 - 2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL
ESTABLISHING LOT SIZE MODIFICATION REGULATIONS, SECTION 17.30.130 OF THE
RIO DELL MUNICIPAL CODE:

THE CITY COUNCIL OF THE CITY OF RIO DELL DOES ORDAIN AS FOLLOWS:

WHEREAS the General Plan contains standards allowing lot size averaging; and

WHEREAS the City's Zoning Regulations have not been amended to implement the General Plan's lot size averaging provisions; and

WHEREAS many jurisdictions allow lot size averaging or lot size modifications based on a property owners desire and/or situation or due to topography and other natural or man-made features ; and

WHEREAS the utilization of lot size averaging will help promote infill development; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City has reviewed and processed the proposed minor text amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is deemed to be in the public interest; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed amendment has been assessed and has been determined not to be detrimental to the public health, safety, or welfare; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

WHEREAS the City has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

WHEREAS pursuant to the requirements of state and local law, the Planning Commission conducted a duly noticed public hearing on January 25, 2012 to consider the proposed amendment, at which time all interested persons were given an opportunity to be heard; and

WHEREAS the Planning Commission following said public hearing recommends that the City Council approve and adopt the recommended amendments; and

WHEREAS the City Council approves the recommended amendment establishing Lot Size Modification regulations, Section 17.30.130 of the Rio Dell Municipal Code; and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Rio Dell does hereby ordain as follows:

Section 1.

17.30.130 Lot Size Modifications

Exceptions to Lot Size, Lot Width and Lot Depth Standards. In order to better design and cope with difficulties due to topography and other natural or man-made features, minimum lot size, minimum lot width and maximum lot depth in all zones may be modified as specified in the following table, subject to securing a Use Permit:

EXCEPTIONS TABLE		
DEVELOPMENT STANDARD	PERMITTED MODIFICATIONS	LIMITATIONS
Minimum Lot Size	Minimum Lot Size may be modified down to a maximum of fifty (50) percent, or 5,000 square feet, whichever is greater.	Such modification must be approved in conjunction with a subdivision or lot line adjustment. The total number of lots created by the subdivision shall not be more than that allowed by the applicable General Plan and zone designations.
Minimum Lot Width	Minimum Lot Width may be modified to a maximum of fifty (50) percent.	Minimum Lot Width shall not be modified below fifty (50) feet.
Maximum Lot Depth	Maximum Lot Depth may be modified up to a maximum of twice that permitted.	Maximum Lot Depth shall not be modified to exceed eight (8) times the lot width.

Section 2. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 4. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on February 7, 2012 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the 21st day of February 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Julie Woodall, Mayor

Karen Dunham, City Clerk

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



SUMMARY FOR POSTING PRIOR TO ADOPTION OF ORDINANCE

(The summary shall be published or posted at least 10 calendar days prior to the City Councils meetings)

Summary

On **February 21, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council is scheduled to approve and adopt Ordinance No. 283 – 2012 amending Section 17.30.130 of the Rio Dell Municipal Code (RDMC) by establishing lot size modification provisions.

A certified copy of the full text of the Ordinance is posted in the office of the City Clerk. General questions regarding the Ordinance, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.

Posted January 27, 2012

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



SUMMARY FOR POSTING AFTER ADOPTION OF ORDINANCE

(The summary shall be published or posted within 10 calendar days after the adoption of the ordinance)

Summary

On **February 21, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council approved and adopted Ordinance No. 283 – 2012 amending Section 17.30.130 of the Rio Dell Municipal Code (RDMC) by establishing lot size modification provisions.

A certified copy of the full text of the Ordinance is posted in the office of the City Clerk. General questions regarding the Ordinance, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: January 25, 2012

To: Planning Commission

From: Kevin Caldwell, Community Development Director

Through: Ron Henrickson, City Manager *RH*

Date: January 13, 2012

Subject: Yards; Section 17.30.280 Rio Dell Municipal Code

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding amending the existing "Yards" regulations to recodify provisions to allow front yard setbacks based on the average setbacks of improved lots on the same block and setback provisions for corner lots.
2. Open the public hearing, receive public input and deliberate;
3. Adopt Resolution No. 48-2012 recommending that the City Council amend the Section 17.30.280 of the Rio Dell Municipal Code.

Background and Discussion

The City's previous zoning regulations (Ordinance 59, Section 6.21(C)) contained provisions to allow front yard setbacks based on the average setbacks of improved lots on the same block. Meaning that if the average front yard setback on the block were less than the standard 20 foot front yard setback, a property owner would be able to place any new development based on the average setback. Staff recently discovered that this provision was inadvertently omitted when the current regulations were adopted in 2004. As such, staff is recommending that the provisions be recodified. Below is a copy of the recommend language:

"In any Residential Zone, where more than one-half of the block is occupied with buildings, the required front yard setback shall be the average of the improved

sites, to a maximum of that required for the zone. Garages must meet the required front yard setback for the zone."

As indicated in the recommended language the averaging provision does not apply to garages. Garages must meet the twenty (20) foot front yard setback requirement in order to provide adequate area to park vehicles without encroaching in to the sidewalk. Section 17.30.020 of the Rio Dell Municipal Code does contain similar language for detached accessory buildings.

17.30.020 Accessory buildings.

(5) No building shall be constructed closer to any traveled way **than will provide adequate space for the traffic movement and the standing of vehicles which may be incidental to the use of the building.** [Ord. 252 § 6.13, 2004.]

In addition to the "averaging" provision, the City's previous zoning regulations (Ordinance 59, Section 6.21(F)) contained provisions regarding setbacks on corner lots were also inadvertently omitted when the current zoning regulations were adopted. As such, staff is recommending that the corner lot yard setback provisions be recodified. Below is a copy of the recommended language:

"In any Residential Zone, the side yard of a corner lot shall be equal to the front yard setback if any part of the main building is within 25 feet of the rear lot line or one-half the front yard setback if all parts of the main building are more than twenty-five (25) feet from the rear lot line."

Procedures for Zoning Ordinance Amendments

Pursuant to Section 17.30.010 of the City of Rio Dell Municipal Code, the following City procedures are required to amend the Ordinance:

- An amendment may be initiated by one or more owners of property affected by the proposed amendment, as set out in Section 17.30.010(3), or by action of the Planning Commission, or the City Council.
- The application of one or more property owners for the initiation of an amendment shall be filed in the office of the City Clerk on a form provided, accompanied by a filing fee.
- Subject only to the rules regarding the placing of matters on the Planning Commission agenda, the matter shall be set for a public hearing.
- Notice of hearing time and place shall be published once in a newspaper of general circulation at least ten calendar days before the hearing or by posting in at least three public places.
- At the public hearing, the Planning Commission shall hear any person affected by the proposed amendment. The hearing may be continued from time to time.
- Within 40 days of the conclusion of the hearing, the Planning Commission shall submit to the City Council a written report of recommendations and reasons therefore.

- Subject only to the rules regarding the placing of matters on its agenda, the City Council, at its next regular meeting following the receipt of such report, shall cause the matter to be set for a public hearing. Notice of the time and place of the hearing shall be given as provided in Section 17.30.010(5), hereof.
- At the public hearing, the City Council shall hear any person affected by the proposed amendment. The hearing may be continued to a specified future date, but shall be concluded within 60 days of the commencement thereof.
- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

Required Findings

1. Section 65855 of the California Government Code (CGC) requires that any proposed ordinance or amendment be consistent and compatible with an overall comprehensive view of the General Plan and any implementation programs that may be affected.

There are no Goals or Policies that directly apply to the proposed amendments. All General Plans are required to facilitate planned, orderly development and ensure that any proposed development is consistent with the character of existing neighborhoods. Allowing front yard setbacks to be averaged, based on existing development on the block, does help ensure that new development is consistent with the character and location of existing development. In addition, the application of the recommended corner lot or exterior side-yard setbacks requirements has historically been applied on corner lots in the City. The recodification of the provision is consistent with the existing development of many corner lots within the City.

Therefore staff believes the proposed amendments are consistent and compatible with an overall comprehensive view of the General Plan

2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).

The primary purpose of the California Environmental Quality Act (CEQA) is to inform the decision makers and the public of potential environmental effects of a proposed project. As part of the General Plan update the City prepared a Program Environmental Impact Report (PEIR) to evaluate the potential impacts associated with the General Plan. The proposed front yard setback averaging provision is consistent with an overall comprehensive view of the General Plan.

Residences are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15268 of the CEQA Guidelines and Section 21080(b)(1) of the Public Resources Code. In addition, residences are categorically exempt from CEQA pursuant to Sections 15301 and 15303 of the CEQA Guidelines and Section 21083 and 21087 of the Public Resources Code.

The proposed amendments apply to existing parcels zoned for single family development. Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption

is covered by the general rule that CEQA applies only to projects which have the potential for causing a **significant** effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA.

Financial Impact

The City is responsible for the costs associated with the proposed amendments. The cost is insignificant and will not result in additional budget expenditures or revisions.

Alternatives

The Planning Commission may choose not to recommend approval of the proposed amendment. Staff does not recommend this alternative.

Attachments

- Attachment 1: Proposed modified Yard provisions, Section 17.30.280 of the Rio Dell Municipal Code.
- Attachment 2: Resolution No. 048 - 2011 recommending approval of the proposed amendments to the City Council.
- Attachment 3: Draft Ordinance No. 284 – 2012 amending Title 17, 17.30.280 of the Rio Dell Municipal Code.
- Attachment 4: Pre-Adoption Summary for Posting.
- Attachment 5: Post-Adoption Summary for Posting.

Title 17
Zoning and Land Use
Chapter 17.30
General Provisions and Exceptions

17.30.280 Yards.

The minimum yard requirements set out in Chapter 17.20 RDMC shall be subject to the regulations of this section.

- (1) Cornices, eaves, canopies, bay windows, chimneys and similar architectural features may extend a maximum of two and one-half feet into such yards. Uncovered porches or stairways, fire escapes or landings may extend a maximum of six feet into front yards and three feet into side yards.
- (2) Detached accessory buildings may not be located within five feet of any main building, nor within five feet of a side line, nor as to encroach on any easement. Accessory buildings attached to main buildings shall be structurally a part thereof and shall comply with main building yard requirements except as follows:
 - (a) A passive solar addition to a main building, as defined herein, may be permitted in the required front, rear or side yard; provided, that no such addition shall reduce the line to less than 10 feet, nor less than five feet from a side property line, and that no such addition shall occupy more than five percent of the area of the front or rear yard, nor more than 10 percent of the side yard area.
- (3) If any building is so located on a lot that the front or rear thereof faces any side lot line, it shall be at least 10 feet from such side lot line.
- (4) Any dwelling located in a TC zone, except a dwelling over a commercial establishment, shall provide side and rear yards as required in UR zones. [Ord. 252 § 6.21, 2004.]
- (5) In any Residential Zone, where more than one-half of the block is occupied with buildings, the required front yard setback shall be the average of the improved sites, to a maximum of that required for the zone. Garages must meet the required front yard setback for the zone.
- (6) In any Residential Zone, the side yard of a corner lot shall be equal to the front yard setback if any part of the main building is within 25 feet of the rear lot line or one-half the front yard setback if all parts of the main building are more than twenty-five (25) feet from the rear lot line.

RESOLUTION NO. PC 048 - 2012

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
RECOMMENDING AMENDING YARD REGULATIONS,
SECTION 17.30.280 OF THE RIO DELL MUNICIPAL CODE:

WHEREAS the City's previous zoning regulations (Ordinance 59, Section 6.21(C)) contained provisions to allow residential front yard setbacks based on the average setbacks of improved lots on the same block; and

WHEREAS staff recently discovered that this provision was inadvertently omitted when the current regulations were adopted in 2004; and

WHEREAS many jurisdictions allow setback averaging in Residential zones; and

WHEREAS the averaging provision does not apply to garages. Garages must meet the twenty (20) foot front yard setback requirement in order to provide adequate area to park vehicles without encroaching in to the sidewalk; and

WHEREAS in addition to the "averaging" provision, the City's previous zoning regulations (Ordinance 59, Section 6.21(F)) contained provisions regarding setbacks on corner lots; and

WHEREAS the provisions regarding residential corner lot setbacks were also inadvertently omitted when the current zoning regulations were adopted; and

WHEREAS staff is recommending that the previous setback averaging and corner lot yard setback provisions be recodified; and

WHEREAS The City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is deemed to be in the public interest; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed amendment has been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

WHEREAS the City has determined that the amendment is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rio Dell recommends that the City Council adopt Ordinance No. 284-2012 amending Section 17.30.280 of the Rio Dell Municipal Code to include (1) provisions to allow residential front yard setbacks based on the average setbacks of improved lots on the same block and (2) provisions for exterior side yard setbacks for corner lots.

PASSED AND ADOPTED by the Planning Commission of the City of Rio Dell at their meeting of January 25, 2012 by the following vote:

I HEREBY CERTIFY that the forgoing Resolution was duly noticed, introduced and approved at a regular meeting of the Planning Commission of the City of Rio Dell on January 25, 2012 by the following vote:

AYES:	Commissioners:
NOES:	Commissioners:
ABSENT:	Commissioners:
ABSTAIN:	Commissioners:

Dave Gonzales, Chair

ATTEST:

Karen Dunham, City Clerk

ORDINANCE NO. 284 - 2012

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL
AMENDING YARD REGULATIONS,
SECTION 17.30.280 OF THE RIO DELL MUNICIPAL CODE:

THE CITY COUNCIL OF THE CITY OF RIO DELL DOES ORDAIN AS FOLLOWS:

WHEREAS the City's previous zoning regulations (Ordinance 59, Section 6.21(C)) contained provisions to allow residential front yard setbacks based on the average setbacks of improved lots on the same block; and

WHEREAS staff recently discovered that this provision was inadvertently omitted when the current regulations were adopted in 2004; and

WHEREAS many jurisdictions allow setback averaging in Residential zones; and

WHEREAS the averaging provision does not apply to garages. Garages must meet the twenty (20) foot front yard setback requirement in order to provide adequate area to park vehicles without encroaching in to the sidewalk; and

WHEREAS in addition to the "averaging" provision, the City's previous zoning regulations (Ordinance 59, Section 6.21(F)) contained provisions regarding setbacks on corner lots; and

WHEREAS the provisions regarding residential corner lot setbacks were also inadvertently omitted when the current zoning regulations were adopted; and

WHEREAS staff is recommending that the previous setback averaging and corner lot yard setback provisions be recodified; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.30.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is deemed to be in the public interest; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with a comprehensive view of the General Plan and any implementation programs that may be affected; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the potential impacts of the proposed amendment has been assessed and have been determined not to be detrimental to the public health, safety, or welfare; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

WHEREAS the City has determined that the amendment is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Rio Dell does hereby ordain as follows:

Section 1.

Section 17.30.280 Yards.

The minimum yard requirements set out in Chapter 17.20 RDMC shall be subject to the regulations of this section.

(1) Cornices, eaves, canopies, bay windows, chimneys and similar architectural features may extend a maximum of two and one-half feet into such yards. Uncovered porches or stairways, fire escapes or landings may extend a maximum of six feet into front yards and three feet into side yards.

(2) Detached accessory buildings may not be located within five feet of any main building, nor within five feet of a side line, nor as to encroach on any easement. Accessory buildings attached to main buildings shall be structurally a part thereof and shall comply with main building yard requirements except as follows:

(a) A passive solar addition to a main building, as defined herein, may be permitted in the required front, rear or side yard; provided, that no such addition shall reduce the line to less than 10 feet, nor less than five feet from a side property line, and that no such addition shall occupy more than five percent of the area of the front or rear yard, nor more than 10 percent of the side yard area.

(3) If any building is so located on a lot that the front or rear thereof faces any side lot line, it shall be at least 10 feet from such side lot line.

(4) Any dwelling located in a TC zone, except a dwelling over a commercial establishment, shall provide side and rear yards as required in UR zones. [Ord. 252 § 6.21, 2004.]

(5) In any Residential Zone, where more than one-half of the block is occupied with buildings, the required front yard setback shall be the average of the improved sites, to a maximum of that required for the zone. Garages must meet the required front yard setback for the zone.

(6) In any Residential Zone, the side yard of a corner lot shall be equal to the front yard setback if any part of the main building is within 25 feet of the rear lot line or one-half the front yard setback if all parts of the main building are more than twenty-five (25) feet from the rear lot line.

Section 2. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 4. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on February 7, 2012 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the 21st day of February 2012 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Julie Woodall, Mayor

Karen Dunham, City Clerk

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



SUMMARY FOR POSTING PRIOR TO ADOPTION OF ORDINANCE

(The summary shall be published or posted at least 10 calendar days prior to the City Councils meetings)

Summary

On **February 21, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council is scheduled to approve and adopt Ordinance No. 284 – 2012 amending the existing “Yards” regulations, Section 17.30.280 of the Rio Dell Municipal Code (RDMC) to recodify provisions to allow residential front yard setbacks based on the average setbacks of improved lots on the same block and setback provisions for corner lots.

A certified copy of the full text of the Ordinance is posted in the office of the City Clerk. General questions regarding the Ordinance, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



SUMMARY FOR POSTING AFTER ADOPTION OF ORDINANCE

(The summary shall be published or posted within 10 calendar days after the adoption of the ordinance)


Summary

On **February 21, 2012** at a regularly scheduled City Council meeting, the Rio Dell City Council approved and adopted Ordinance No. 284 – 2012 amending the existing “Yards” regulations, Section 17.30.280 of the Rio Dell Municipal Code (RDMC) to recodify provisions to allow residential front yard setbacks based on the average setbacks of improved lots on the same block and setback provisions for corner lots.

A certified copy of the full text of the Ordinance is posted in the office of the City Clerk. General questions regarding the Ordinance, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



To: Honorable Rio Dell Planning Commission
From: Graham Hill, Chief of Police 
Through: Ron Henrickson, City Manager
Date: January 25th, 2012
Subject: Animal Control Ordinance Review

Planning Commission Action

- Approve content of Draft Animal Control Ordinance
- Schedule review of fees and penalties associated with Draft Animal Control Ordinance for February 2012.

Background

The Planning Commission has had two opportunities to review and make recommendations to staff in regards to the content of the draft Animal Control Ordinance that is being brought forward. This latest draft has the changes that had been recommended by the Planning Commission on November 2nd, 2010, and is being brought forward again for additional review and recommendations. It should be noted that the draft fees and penalties that are associated with this ordinance have not yet been incorporated. Those will be brought forward in February after further analysis.

Budgetary Impact

Ultimately fees and penalties will be incorporated into this ordinance which will have an impact financially. The effects of that impact are unknown at this time however revenues for the purpose of maintaining service will be increased as a result.

Recommendation

It is the recommendation of staff to approve the content of the Draft Animal Control Ordinance and schedule one final review of fees and penalties in February for the purpose of making a recommendation to the City Council for approval..

Animal Care and Control Ordinance

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Article 1- Purpose

The purpose of this ordinance is to preserve the health and safety of persons and animals with the City of Rio Dell, and additionally;

1. To provide for the regulation of the licensing of dogs and kennels;
2. To prevent the running at large of dogs within the City limits of the City of Rio Dell;
3. To establish certain standards, rules, regulations, fees, penalties, and procedures as authorized by law.
4. Provide for pet population control

Article 2 - Jurisdiction

The provision of this ordinance shall apply to the incorporated territory of the City of Rio Dell

Article 3 - Definitions

Chief Animal Control Officer

The "Chief Animal Control Officer" shall mean the Chief of Police

Dog

"Dog" shall mean any domesticated animal of the canine family, excluding domesticated Coyotes, Foxes, Dingoes, Wolves, or other wild species of the same, as well as hybrids thereof, which are defined separately.

Kennel

"Kennel" shall mean any enclosure, premises, building, structure, lot or area, except where reasonably necessary to support an agricultural use (i.e., contain herding dogs), where four (4) or more dogs or other small domesticated animals, which are not sick or injured and are ten (10) weeks in age or older are boarded for compensation, cared for, trained for compensation, kept for sale, or bred for sale, or four (4) or more dogs or other small domesticated animals that are ten (10) weeks or age or older which are kept and maintained as pets, "rescue animals", or for any other non-commercial purpose.

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Owner

"Owner" shall mean a person who possesses, has title to, or an interest in, harbors, or has control, custody, or possession of an animal and the verb forms of "to own" shall include all these shades of meaning.

Person

"Person" shall mean any person, firm, company, corporation, partnership, or association.

Vaccination

"Vaccination" shall mean the inoculation of a dog with canine anti-rabies vaccine approved by and in the manner prescribed by the Department of Public Health of the State of California, and/or additional vaccinations as required by law,

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Veterinarian

"Veterinarian" shall mean a person licensed by the State of California to practice veterinary medicine.

At Large

"At large" shall mean an animal that is off the property of the owner and not under restraint.

Habitually to make loud noise

"Habitually to make loud noise" shall mean a dog or other animal with the exception of a domesticated cat, that barks, bays, cries, howls, or makes any noise for an extended period of time to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property. Such extended period of time shall consist of continuous barking for 30 minutes or more in any 24-hour period, or intermittent barking for 60 minutes or more during any 24-hour period. A dog shall not be deemed a "barking dog" for purposes of this Article if, at any time the dog is barking, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or when the dog is being teased or provoked.

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Vicious Dog

A Vicious Dog shall mean any of the following:

1. Any dog owned or harbored for the purpose of dog fighting; or
2. Any dog seized under Section 599aa of the California Penal Code and upon sustaining of a conviction of the owner or keeper under Subdivision (a) of Section 597.5 of the California Penal Code.
3. Any dog which, when unprovoked, in an aggressive manner inflicts severe injury or kills a human being.
4. Any dog previously determined to be a potentially dangerous dog which, after its owner or keeper has been notified of this determination continues the behavior described in the definition contained in this ordinance of a "potentially dangerous dog", or is maintained in violation of this chapter.

Potentially Dangerous Dog

A potentially dangerous dog shall mean any of the following:

1. Any dog which, when unprovoked, on two separate occasions within the prior 36 month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.
2. Any dog which, when unprovoked, bites a person causing less severe injury than as defined within the definition of a "vicious dog".
3. Any dog which, when unprovoked, on two separate occasions within the prior 36 month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.

Public Nuisance Dog

A Public Nuisance Dog shall mean any dog which gives offense to human senses or substantially interferes with the rights of persons, other than its owner or keeper, to the enjoyment of life or property. The term shall include, but not be limited to, any dog which:

1. On three(3) separate occasions within a thirty six (36) month period has been cited, or impounded for being off its owners or keepers property in violation of this ordinance or any other applicable law;
2. Causes damage to the property of anyone other than its owner or keeper.
3. Harasses or intimidates persons on public property or private property other than that owned or under control of its owner or keeper.
4. Repeatedly chases vehicles that are not on its owners property
5. Makes disturbing noises such as barking, howling, whining, or other utterances to the annoyance, disturbance, or discomfort of neighbors or others in the vicinity of the property where the dog is maintained.
6. Has been allowed by its owner or keeper to produce odors which annoy, disturb or cause discomfort to persons in the vicinity of the property of where the dog is maintained.
7. Is one of a number of dogs or other animals maintained on the property owned or controlled by its owner or keeper so as to be offensive to persons or dangerous to the public health, safety or welfare.
8. Has, when unprovoked, bitten any person who is lawfully on the owner's or keeper's property causing minor injury.

Severe Injury

Severe injury means any physical injury to a human being that results in muscle tares, broken bones, or disfiguring lacerations or requires multiple sutures or corrective cosmetic surgery.

Enclosed

Enclosure means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering the dog within the enclosure. The enclosure shall be securely locked and have secure sides, top, and bottom sufficient to prevent the animal from escaping.

Owner or Keepers Property

For purposes of defining potentially dangerous, vicious and public nuisance dogs, the owner or keeper's property includes that property over which the owner or keeper has the exclusive possession and use.

Hearing Entity/Officer

For the purposes of this ordinance the hearing entity or officer shall be the Chief of Police or his/her designee.

Article 4 - Administration

Chief of Police

The Chief of Police is responsible for Animal Control Services as provided by the Ordinance, and shall oversee all Animal Control activities, including;

1. Supervise and direct Animal Control Officers in the performance of their duties;
2. Administer the dog licensing and kennel licensing provisions of this Ordinance;
3. Collect, or facilitate the collection of all fees associated with Animal Control and turn those fees over to the Rio Dell Finance Department;
4. Administer and enforce all provisions of this ordinance;
5. Take up and impound all animals found to be in violation of the provisions of this ordinance;
6. To cooperate with the County Health Officer in the administration and enforcement of the rabid and dangerous animal provisions of this ordinance;
7. To facilitate the removal and disposal of the carcass of any dog found in or on any street, alley, or other public place, except State Highways;
8. To keep and maintain records in accordance with State Law and policy;

Establishment of a public pound

1. A public pound is authorized and may be established and shall be located at such place in the City of Rio Dell as shall be fixed from time to time by the Rio Dell City Council. The public pound, or any authorized branches thereof, shall provide suitable buildings and enclosures to

adequately keep and safely hold all dogs, cats or other animals subject to be impounded by the provisions of this ordinance.

2. The City Council, at their discretion, may enter into a contract with a qualified facility to carry out the duties of housing, care, feeding, redemption, and other associated activities as defined therein.

Animal Control Officer

Police Officers are designated as Animal Control Officers and will carry out functions of the Animal Control Ordinance at the direction of the Chief of Police. Other members of the Police Department may be assigned Animal Control duties.

Upon approval of the City Council the Police Department may employ an individual for the sole purpose of enforcing the Animal Control Ordinance in the capacity of Animal Control Officer.

Authority to Carry Firearms

The Chief of Police may authorize Animal Control Officers to carry a firearm when acting in the course and scope of their employment pursuant to the provisions of California Penal Code § 26025(b).

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Pursuit on Private Property

Animal Control Officers, when in pursuit of an animal at large, shall have the authority to enter private property to apprehend such animals.

Fees and Penalties

The Animal Control Division shall charge, receive and collect fees and penalties for the performance of services in the amounts, at the times, and in the manner specified herein or by resolution of the City of Rio Dell City Council.

Article 5 - Prohibitions

Animals running at large

No owner shall permit his animal, wild or domestic, except a domestic cat, to run at large within the City Limits of Rio Dell.

Whenever the Chief Animal Control Officer or other authorized personnel thereof take up, assume control over, herd, or otherwise respond to a situation involving any animal which is at large, and which is not impounded pursuant to this ordinance, the owner or other person responsible for the care or restraint of such animal shall pay, and be charged and liable for a fee not to exceed the actual costs incurred by the City of Rio Dell in taking up, assuming control over, herding, or otherwise responding to the at large animal.

Dogs on leashes

It shall be unlawful for any person to suffer or permit any dog owner, harbored, or controlled by him/her to be on any public street, alley, lane, park, or place of whatever nature open to and used by the public in the incorporated areas of the City unless such dog is securely leashed and the leash is held continuously in the hand of a responsible person capable of controlling such dog, unless the dog is securely confined in a vehicle.

Trespassing

No owner shall permit his/her animal, except a domestic cat, to trespass on any property, public or private, without the consent of the owner of the property.

Property Damage

No person shall knowingly permit their animal, including a domestic cat, to damage the private property of another, or public property.

Noise

No owner shall permit his animal, except a domestic cat, habitually to make loud noise or act in such a manner as to constitute a public nuisance.

Female dogs in heat

No owner of any unspayed female dog shall permit such dog to stray or run at large in the City Limits of Rio Dell while such female dog is in the copulating season.

Proper care

No owner or person in charge of an animal shall permit such animal to go without proper food, water, care, shelter, or attention.

Unlicensed dogs

No owner shall have a dog required to be licensed within the City of Rio Dell unless such dog has been licensed pursuant to the provisions of this ordinance.

Tags and collars

No owner shall fail, neglect, or refuse to attach, by means of a collar, harness, or other device, any tag issued pursuant to this ordinance to the licensed dog, nor shall any owner fail, neglect, or refuse to keep such tag attached to such dog at all times while the license is in force.

Replacement of tags

No owner shall fail to apply for a new license within ten (10) days after the date of the loss of the license tag.

Improper tags

No person shall permit to be attached or kept upon any dog any license tag provided for by this ordinance except for a tag issued for that dog pursuant to this ordinance, nor shall any owner permit to be attached to or kept in his possession, any counterfeit or imitation of any tag provided for by this ordinance.

Removal of tags

No person without authorization from the owner shall remove from any dog any collar, harness, or other device to which a current license tag is attached; nor shall any such person remove a current license tag from any such collar, harness, or other device.

Unlicensed kennels

No owner shall maintain, conduct, or operate, or cause to be maintained or operated; any unlicensed dog kennel.

Kennel standards

No person shall fail, neglect, or refuse to maintain a kennel:

1. So as to prevent dogs contained therein from running at large;
2. So the location of the kennel does not violate the zoning ordinance;
3. So the kennel does not violate building codes or sanitary laws;
4. So the kennel premises are maintained in a clean and sanitary condition;
5. So the dogs therein are not subject to cruelty, suffering, or abuse;
6. So the kennel does not constitute a public nuisance;
7. So the keeping and maintenance of the kennel will not be detrimental to the peace, health, or safety of persons in the immediate vicinity;
8. Without possessing evidence that each dog in the kennel has been vaccinated in accordance with the provisions of this ordinance.

Kennels after license revocation

No person shall operate or maintain a kennel within one year after the revocation of a kennel license.

Taking dogs from kennels

No person shall take a dog off the premises of a kennel except under control of a leash; nor shall any owner of a kennel or his agent or employee run or take dogs off the premises of a kennel or permit dogs to be run or be taken there from except as provided in this chapter.

Vaccinations

No owner shall have a dog within the City limits of Rio Dell unless such dog has been vaccinated against rabies pursuant to the provisions of this ordinance.

Reports

Any person having knowledge of an animal of the categories that constitute an animal that is or may be rabid as defined in this ordinance, shall notify the Chief of Police or his/her designee or agent immediately

Isolation or Quarantine

No person shall violate any of the conditions of isolation or quarantine prescribed by the Chief Animal Control Officer, his or her agent, or the County Health Officer.

Epidemic regulations

No person shall violate any rules or regulations promulgated pursuant to the provisions of this ordinance based upon a determination or declaration of a rabies epidemic or unusually dangerous health situation.

Interference with enforcement

No person shall interfere with, oppose, or resist the Chief Animal Control Officer or his or her agents, under the provisions of this chapter, to take up and impound animals while such officer or agent thereof is engaged in the performance of any act authorized by the provisions of this ordinance.

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Fecal matter

No owner shall permit his dog to deposit fecal matter on property, other than his or her own, unless such owner shall cause the fecal matter to be removed immediately and properly disposed of.

Limitations

It is unlawful for any person or persons to own, harbor or maintain at any parcel, more than three dogs or cats four months of age or older, except as provided for within this ordinance.

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Violations: misdemeanors, infractions

1. The following ordinance violations shall constitute a misdemeanor:

- a. Unauthorized removal of tags/license
- b. Maintaining an unlicensed kennel
- c. Maintaining substandard kennel(s)
- d. Operating a kennel with a revoked kennel license
- e. Not adhering to vaccination requirements
- f. Violations of epidemic regulations
- g. Interference with the enforcement of this ordinance
- h. Any violations of this code relating to vicious or potentially dangerous dogs

2. All other violations shall constitute an infraction

Separate offenses

Every person violating any provision of this ordinance shall be deemed guilty of a separate offense for each calendar day or during which such violation continues and shall be punishable therefore as provided

Deleted: , or portion thereof,

Promises to appear

1. Notices to Appear: If any person is arrested for any such violation, and such person is not immediately taken before a magistrate, the arresting officer, pursuant to the provisions of Section 853.6 of the California Penal Code, shall prepare, in duplicate, a written notice to appear in court. Such written notice shall contain the name and address of such person and the offense charged and shall set forth the time when and the place where such person shall appear in court. The time set in the notice to appear shall be at least twenty-one (21) days after such arrest. The place set forth in the notice to appear shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by such court to receive a deposit of bail.

Article 6 - Licenses: General

Effect of licenses

The issuance of any license or permit to keep an animal as provided for in this chapter shall be prima facie evidence that the owner has satisfied the basic licensing requirements pursuant to the provisions of this ordinance, but such issuance shall be given no evidentiary weight to indicate that the owner has conformed to zoning regulations, building regulations, health and safety regulations, or to any other applicable rule, regulation, or statute unless, pursuant to the issuance, official written approval has been given by the office or agency responsible for the administration of the rule, regulation, or statute in question. If such approval has been given, it shall be deemed prima facie evidence that the matter approved is in conformance with the rule, regulation, or statute in question.

Exemptions from licensing

The licensing regulations of this chapter shall not be applicable to the following owners who use animals for diagnostic purposes or research, the use having been approved by the Board of Public Health of the State of California pursuant to the provisions of section 1666 of the California Health and Safety Code; owners who use animals for teaching purposes in recognized educational institutions; owners of establishments which treat or board animals and which are owned and operated by veterinarians licensed by the State of California; and owners of pet shops, circuses, animal exhibits, and other enterprises maintaining animals which have been granted business licenses, or event licenses by the City of Rio Dell.

Article 7 - Licenses: Dogs

Dog licenses

Every owner of a dog required to be licensed shall procure an animal license for such dog in accordance with the procedure set forth in this ordinance.

Dogs required to be licensed

A dog required to be licensed shall be a dog that:

1. Is over the age of four (4) months; and
2. Is not in a licensed kennel; and
3. Has not been in a licensed kennel within forty-eight (48) hours; and
4. Has been in the city limits of the City of Rio Dell for ten (10) days.

Time of applications, durations of licenses, renewal notices

1. Applications for dog licenses shall be made on or before the first day the dog is required to be licensed pursuant to this ordinance. Before any dog is released to a new owner, a completed application form, together with the license fee, shall be submitted by such person.
2. A license which is initially issued in accordance with this article shall be valid from June 1st of the year issued to July 31st of the following year. The Rio Dell Police Department will make every effort to notify, via mail, the owners of previously licensed dogs, thirty days prior to expiration that license fees are due.

Preparation of forms and tags

The Chief of Police is hereby authorized and directed to have prepared suitable application forms for dog licenses as provided in this article and license tags to be issued to the owners of dogs.

License applications

The license application shall bear the name (if any), age, sex, color, breed, previous rabies vaccination date, and subsequent revaccination date of the dog for which the license is applied.

Fee

The amount of the annual dog license fee shall be set by resolution of the City Council of the City of Rio Dell, provided, however if a certificate is presented from a licensed veterinarian that the dog has been either spayed or neutered, or if the veterinarian has on file an affidavit stating that the animal has been spayed or neutered and that examination by the veterinarian discloses no evidence to the contrary, the fee shall be one-half (1/2) the regular set fee.

Penalties

1. The owner of any dog required to be licensed who fails to procure and pay for such license as required by this ordinance shall pay, in addition to the established license fee, a penalty as established by the City Council of the City of Rio Dell.
2. The owner of any dog required to be licensed pursuant to this ordinance for the year immediately preceding the year in which an application for a dog license is filed who failed to obtain a license for such dog for such year shall pay, in addition to any other license fee or penalty, a penalty set by resolution by the City Council of the City of Rio Dell.

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Exceptions from penalties

1. The penalty provided for in this ordinance for failing to license a dog shall not apply to the owner of a dog required to be licensed which has not been subject to the licensing requirement for more than thirty (30) days; or in the case of a dog that had not been licensed during the preceding year, the penalty shall not apply if the dog had not been subject to the licensing requirement for thirty (30) days the immediately preceding year.

Seeing Eye dogs

1. No fee or penalty shall be collected or received for any dog license issued for a Seeing Eye dog owned by a blind or partially blind person.
2. If a person presents written verification from Guide Dogs for the Blind, Inc., that they are raising a Seeing Eye puppy and will deliver it to Guide Dogs for the Blind Inc., when it is approximately

one year old, no fee or penalty shall be collected or received for any dog licensed issued for a Seeing Eye puppy.

Law Enforcement Dogs

If a dog is owned and used exclusively for law enforcement purposes by a public safety agency, no fee or penalty shall be collected or received.

Issuance: Filing

A license shall be issued after the submission of a completed application form, a license fee, and a rabies vaccination certificate issued pursuant to the provisions of this ordinance, establishing the dog in question has been vaccinated in accordance with the requirements of the State Department of Health. The license shall be issued to the owner, or the owner's agent, at the time of application, provided the application is complete and meets the requirements as set forth in this ordinance.

License tags

License tags shall be metallic, shall be numbered serially, and shall have a stamp thereon bearing the name of the City of Rio Dell.

Lost tags

As often as any license is lost, the owner, within ten (10) days thereafter, shall procure another tag for which such owner shall pay a fee set by resolution by the City Council of the City of Rio Dell.

Article 8 – Licenses: Kennel

Kennel License

Every person owning or controlling a kennel shall procure an annual kennel license on or before June 1st of each year in accordance with the procedure set forth in this ordinance, which a kennel license shall be a license for all dogs kept therein. A kennel license is in addition to the requirement of a business license (if applicable).

Preparation of forms and certificates

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The Chief of Police is hereby authorized and directed to have prepared suitable application forms for kennel licenses and kennel license certificates as provided in this ordinance.

Contents of application forms

The application for a kennel license shall set forth the name and address of the applicant, the location, including the address, of the kennel, a description of the facility for housing the dogs, and the number and description of the dogs kept in the kennel.

Fees

The kennel license fee shall be set by resolution by the City Council of the City of Rio Dell.

Penalties

1. The owner of any kennel who fails to procure and pay for such license until after June 1st of any year, or fails to procure a license at the time they begin to operate as a kennel, shall pay the applicable license fee, and in addition, if the fee is not paid by June 10th, or within ten days of operating as a kennel, then the owner shall pay a fine as set forth by the City Council of the City of Rio Dell.
2. The determination of when a kennel started operating as such shall be based on the preponderance of the evidence available.

Investigations

Upon the receipt of an application and license fee and penalties, if any, the Chief of Police, or his designee, shall send copies of the application to the City Manager, the Planning Department, the Public Works Department, and the Building Department, and those entities shall determine if the proposed kennel would be within conformity to ~~zoning~~/planning codes/policy, building codes, business license provisions, and sanitation laws and/or regulations.

Action on applications

After receipt of reports in relation to other departments, or as deemed appropriate and reasonable, the Chief of Police shall act on the application as follows:

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1. The Chief of Police shall approve the application if he/she finds that the kennel is maintained in accordance with each of the conditions as set forth by this ordinance.
2. He/she may approve the application with conditions set to meet reasonable concerns that are identified during the process of reviewing the application. Under such circumstances that an application is approved conditionally it shall be reviewed and endorsed by the City Manager in addition to the Chief of Police.
3. He/she shall deny the application ~~if he/she does not make the findings that the kennel, or~~ proposed kennel does not conform to the conditions set forth in this ordinance or other applicable ordinance, rule, or statute. In the event an application is denied the Chief of Police shall provide the reason for the denial in writing to the applicant within fourteen (14) days of the application being denied.

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Endorsement and filing

The license application and issued license certificate shall be endorsed by the Chief of Police, and the application and a copy of the certificate shall be maintained in a file at the Rio Dell Police Department.

License certificates

The issuance of a kennel license shall be evidenced by the issuance of a kennel license certificate in a form determined by the Chief of police. Kennel license certificates shall bear the name of the City of Rio Dell, the date the certificate was issued, the date the certificate will expire, and shall be numbered serially.

Notices

The Chief of Police or his/her designee may notify kennel owners of record that a current kennel license is due and a fee is payable.

Suspension of kennel license

The Chief of Police may make an order suspending any kennel license issued pursuant to the provisions of this ordinance upon a finding that there exists any fact which would have been a ground for refusal to issue a kennel license, or if there has been a violation of the provisions of this ordinance, or a violation of conditions imposed in any kennel license, or if the owner of the kennel, or any agent or

employee employed therein, has been convicted of a violation of the provisions of Section 597 of the California Penal Code.

Suspension of kennel license: Notices

The Chief of Police, or his/her designee, shall cause a copy of an order of suspension of a kennel license to be mailed to the applicant of such license via certified US mail to the address listed by the applicant on the application.

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Appeals

The applicant may appeal an order by the Chief of Police denying a kennel license and/or suspending a kennel license to the RIO Dell City Council, however such appeal must be made in writing through the Office of the City manager, within fifteen (15) days of the denial of the license, or fifteen (15) days of the receipt of written notice to the applicant of the reasons for the denial of the license, or within fifteen (15) days of receipt of a Notice of Suspension or a Notice of Revocation of a kennel license.

Automatic revocation

If no appeal is requested as set forth within the time period allotted, pursuant to this ordinance, in regards to a suspended kennel license then such license shall be deemed revoked.

Article 9 - Impoundment

Taking up and impounding

The Chief of Police and/or his designee, or any Animal Control Officer, shall take up and impound in a suitable facility, properly maintained to acceptable humane standards, either under the ownership and control of the City of Rio Dell, or under contract with the City of Rio Dell, all animals found to be in violation of the provisions of this ordinance or Division 9 of the California Food and Agricultural Code, or other applicable rule, ordinance, or statute.

Notice of Impoundment

As soon as possible, but no later than 24 hours after impounding any dog properly licensed under the provisions of this ordinance, the Animal Control Officer who caused the impoundment shall notify the

owner of record by telephone, mail, or in person that such dog is impounded and that it can be redeemed within five days from the date of such impoundment and unless redeemed, the dog will be disposed of in a manner as provided by this ordinance.

Redemption period

Except as otherwise provided in this ordinance, all animals impounded at the animal control facility, either operated by the City of Rio Dell, or operated by another entity under contract, or another facility being used, as approved by the Chief of Police, under special circumstances specific to a particular impoundment shall be kept and maintained at least for the following redemption periods:

1. Five (5) days for any dog found wearing a current annual license tag;
2. Seventy-two (72) hours for any dog found not wearing a current annual license tag, and has not other means by which to identify the owner;
3. Five (5) days for any animal governed by the provisions of Section 17003 of the California Food and Agricultural Code; and
4. Seventy-two (72) hours for any other animal.

At any time after the expiration of the minimum time period as described by this code for the retention of impounded dogs, the Chief of Police may cause the sale, gift, or humane destruction of such dogs as allowed by current law. The Chief of Police shall not give, sell, or otherwise convey an impounded animal to any institution engaged in the diagnosis or treatment of human or animal disease, or in research for the advancement of veterinary, dental, medical, or biological sciences, or in the testing or diagnosis, improvement or standardization of laboratory specimens, biologic products, pharmaceuticals, or drugs.

Animals voluntarily surrendered

Any animal which is voluntarily surrendered to or deposited with the Rio dell Police Department or an agent thereof, shall not be deemed to be impounded and need not be kept or retained for any minimum period of time.

Surrendered or abandoned animals: Adoption, immunization

1. Except as provided by law the Chief of Police may authorize the adoption of any animal in the care, custody, and control of the Rio Dell Police Department. Under circumstances during which the City of Rio Dell is under contract with another entity, the adoption of animals may be the facilitated by that entity.

2. The Chief of Police and/or his designee may authorize the immunization of any dog, ~~four~~ (4) months of age, which is voluntarily surrendered to or deposited with the Rio Dell Police Department. A fee, as set forth by the City Council of the City of Rio Dell by resolution, may be charged in addition to any other fees associated with the adoption of an animal for the purpose of defraying the costs associated with such immunization. Under circumstances during which the City of Rio Dell is under contract with another entity, the immunization of animals and recovery of associated fees may be facilitated by that entity.

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Spay or neuter deposit

1. A spay or neuter deposit, as set by resolution of the City Council of the City of Rio Dell, shall be collected at the time of adoption of any dog or cat, and will be held for a period not to exceed sixty (60) days, except that for dogs and cats six (6) months of age or younger at the time of adoption, the period shall not exceed six (6) months. If a female dog and her puppies or a female cat and her kittens are adopted together, one deposit shall be charged. Under circumstances during which the City of Rio Dell is under contract with another entity, the spay and neuter deposit for adopted animals may be facilitated by that entity.
2. At any time within the period specified above, the owner may present a spay or neuter certificate for the adopted animal from a licensed veterinarian or veterinary clinic, in which event the deposit will be returned. Deposits not so claimed within the time period specified above shall be deemed unclaimed and shall automatically be forfeited to the City, or contract facility for use in accordance with California Food and Agricultural Code Sections 30503 and 31751.

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Redemption

1. The owners of impounded animals, during the redemption period and at any time before the disposition of such animals, may redeem them by paying the impoundment fees and licensing dogs in the manner provided in this ordinance.
2. The Chief of Police or his/her designee shall charge and collect fees, as set by resolution by the City Council of the City of Rio Dell, for every impounded animal when claimed and before its release.

Euthanasia

1. The Chief of Police may facilitate euthanasia services on animals whose owners request it. The Chief of Police may issue regulations to implement the provisions of this section.
2. A fee, set by resolution by the City Council of the City of Rio Dell, shall be charged and collected by the Rio Dell Police Department for every animal which is euthanized at its owner's request.

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Animal traps

1. The Chief of Police or his/her designee may loan animal traps and provide related retrieval services for persons who request it. A deposit may be collected at the time the trap is loaned not exceeding the value of the trap.

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Liability

No person shall be liable for the disposition of any animal in accordance with the provisions of this chapter.

Article 10 - Rabies

Vaccinations

Every owner of a dog over four (4) months in age shall have such dog vaccinated with such canine anti-rabies vaccine and at such intervals as prescribed by the State Department of Health.

Vaccinations: Imported dogs

Every owner who brings into the City of Rio Dell a dog which has not been vaccinated within twelve (12) months prior to the importation thereof shall have the dog vaccinated within five (5) days from and after its arrival in the City of Rio Dell. The certificate of vaccination issued by a duly licensed veterinarian from any other jurisdiction for the specific dog, establishing the vaccination with an approved vaccine, may be accepted by the Chief of Police or his/her designee as evidence of vaccination upon the date of the vaccination indicated on the certificate.

Vaccinations: Exceptions

A dog shall be exempt from the vaccination requirements of this ordinance if within one (1) year:

1. A veterinarian has examined the dog and certified that a vaccination will endanger the dog's health for physiological reasons; and
2. Such certificate is presented to the Chief of Police and the County Public Health Officer within five (5) days after the examination; and
3. The County Health officer concurs in the opinion of the veterinarian and endorses his approval on the veterinarian's certificate.

Vaccinations: Procedure

1. Dogs shall be vaccinated by a veterinarian or at vaccination clinics approved by the Chief of Police and/or the County Public Health Officer that are in accordance with state law.
2. Every person who vaccinates a dog for rabies shall issue the owner of the dog a certificate containing the following:
 - a. The name, address, and telephone number of the dog owner;
 - b. The type of rabies vaccine administered (including the name of the manufacturer and the lot number of the vaccine used);
 - c. The date of the vaccination, the interval for the next vaccination, and date the next vaccination is due;
 - d. A description of the dog, including the breed, age, sex, color, and markings of the dog;
 - e. The stamped, printed, or typewritten name, address, and telephone number of the person who administered the vaccine: and
 - f. The signature, with date, of the person administering the vaccine.
3. Every person who vaccinates a dog for rabies shall submit to the Rio Dell Police Department a copy of the rabies vaccination certificate required by this ordinance no later than thirty (30) days after the date the vaccination was administered.

Reports

It shall be the duty of any person having knowledge of any animals falling into the following categories to immediately report the animal to the Rio Dell Police Department, and/or the County Public Health Officer, and to furnish complete information regarding the incident:

1. Known rabid animals;
2. Suspected rabid animals;
3. Animals which have bitten a human or otherwise exposed a human to rabies; and
4. Animals of a species subject to rabies which have been bitten by a known rabid or suspected rabid animal or have been in intimate contact with a rabid or suspected rabid animal.

Reports to Health Officer

Upon receipt of a report of a rabid or suspected rabid animal pursuant to this ordinance, or upon the receipt of information of another animal disease dangerous to humans, the Chief of Police, or any animal control officer as defined by this ordinance shall report that information to the County Public Health Officer.

Isolation or Quarantine

Chief of Police and/or his designee shall isolate and quarantine, with the concurrence of the County Public Health Officer, any animal that is suspected to be rabid that has been captured or is otherwise in the possession of the Rio Dell Police Department. Such isolation and quarantine shall be done so in accordance with state law.

Carcasses of rabid animals

Upon the death of any rabid animal, clinically suspected rabid animal, or animal which has bitten or otherwise exposed a human to rabies, the Chief of Police shall obtain and turn over to the County Public Health Officer the carcass of such animal or an adequate specimen thereof, at the discretion of the County Public Health officer.

Destruction

Upon an order of the County Public Health Officer, the Chief of Police or his/her designee, shall destroy any animal or its carcass if an examination shows such animal or carcass to be rabid.

Epidemic regulations

The Rio Dell Police Department shall adhere to and comply with any orders as issued by the County Public Health Officer in regards to a rabies epidemic or other unusually dangerous health situation among dogs or other animals.

Fees

Upon a determination that an animal is not rabid after a ten day isolation and quarantine period the animal may be returned to its owner or person responsible upon the payment of fees for such impoundment as set by the City Council of the City of Rio Dell. In the event the owner or person responsible does not pay the associated fees the dog will be retained for a period of five (5) additional days and then disposed of in accordance with this ordinance by means of adoption, or euthanasia.

Article 11 - Regulation of vicious animals

Purpose

The uncontrolled maintenance of vicious animals constitutes a dangerous situation which presents a threat to the health, safety, and welfare of the persons and animals within the City of Rio Dell. This situation presents a serious hazard within the City which is compounded by the increasing tendency to maintain animals which, by virtue of breeding and training, have a propensity to attack others. The purpose of this article is to protect the public health, safety, and welfare by regulating vicious animals.

Procedure for declaring a dog POTENTIALLY DANGEROUS, VICIOUS, or a NUISANCE

If an animal control officer or law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous, vicious or a nuisance, the Animal Control Officer, shall petition the Chief of Police, or his/her designee, for a hearing for the purpose or determining whether or not the dog in question should be declared potentially dangerous, vicious, or a nuisance. In the event the Chief of Police has probable cause to believe that a dog is potentially dangerous, vicious, or a nuisance, he/she is not required to petition for a hearing, however must document the probable cause for such hearing and make such probable cause available to the owner or keeper of the dog in question, and such written probable cause shall become a part of the record and maintained in compliance with State and Federal Law as it pertains to the retention of public records. Whenever possible any complaint received from a member of the public which serves as the evidentiary basis for the Animal Control Officer or Law Enforcement Officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition. The Chief of Police shall notify the owner or keeper of the dog that a hearing will be held by the Chief Animal Control Officer or his/her designee, at which time he or she may present evidence as to why the dog should not be declared

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potentially dangerous, vicious, or a nuisance. Said evidence may be offered either written or oral by the owner of the dog or any interested citizen, including Animal Control Officer's, Humane Officers or Peace Officers, and shall be sworn to and/or signed under declaration of penalty of perjury.

Notice of Determination

After the hearing conducted pursuant to this ordinance, the owner or keeper of the shall be notified in writing of the determination and orders issued, either personally or by certified US Mail by the Hearing Officer. If a determination is made that the dog is potentially dangerous, vicious, or a nuisance, the owner or keeper shall comply with the provisions of this ordinance in accordance with the time scheduled established by the Chief of Police or his or her designee, but in no case more than thirty (30) days after the date of the determination or thirty-five (35) days if notice of the determination is mailed to the owner or keeper of the dog.

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Appeal

If the petitioner or the owner or keeper of the dog contests the determination of the Hearing Officer, he/she may, within five (5) days of the receipt of the notice of determination, appeal the decision of the Hearing Officer to the Rio Dell City Council and request a public hearing. The City Council shall schedule a public hearing at the next available City Council meeting, or may schedule a special meeting for the specific purpose of hearing the appeal. The City Council may decide all issues for or against the owner or keeper of the dog even if the owner or keeper fails to appear at the hearing. The determination of the City Council shall be final and conclusive upon all parties.

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Seizure and Immediate impoundment

If upon investigation is determined by the Animal Control Officer or Law Enforcement Officer that probable cause exists to believe the dog in question poses an immediate threat to public safety the Animal Control Officer, or Law Enforcement Officer may seize and impound the dog pending the hearing or determination provided for in the "Procedure for Declaring a Dog POTENTIALLY DANGEROUS, VICIOUS, or a NUISANCE". The owner or keeper of the dog shall be liable to the City of Rio Dell for the costs and expenses of keeping the dog if the dog is later determined to be found potentially dangerous or vicious. If public safety is adequately assured, the Chief of Police may permit the dog to be confined at the owner's expense in an approved kennel or veterinary facility or on the owner's premises.

When dogs may not be declared POTENTIALLY DANGEROUS, VICIOUS, or a NUISANCE

1. No dog may be declared potentially dangerous, vicious, or a nuisance if any injury or damage is sustained by a person who, at the time of the injury or damage was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime. No dog may be declared potentially dangerous, vicious, or a nuisance if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog may be declared potentially dangerous, vicious, or a nuisance if an injury was sustained by a domestic animal which at the time the damage was sustained was teasing, tormenting, abusing, or assaulting the dog.
2. No dog may be declared potentially dangerous, vicious, or a nuisance if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog. This section only applies to the circumstances of seizure and shall not be construed to have any effect on any other rule, law, or statute, as it pertains to activities related to hunting, ranching, or trapping.

Disposition of potentially dangerous or vicious dogs

1. All dogs which have been determined by the hearing entity to be potentially dangerous or vicious dogs shall be properly licensed and vaccinated. The status of the dog shall be included in the licensing records either after the owner or keeper has agreed to the designation or the hearing entity has determined the designation applies to the dog. An additional fee of twice the applicable license fee shall be charged for maintain this additional information in the licensing records.
2. A potentially dangerous or vicious dog while on the owner's property, shall, at all times, be kept indoors, or in an enclosure as defined in Article 3 of this ordinance. A potentially dangerous dog may be off the owner's property only if it is restrained by a substantial leash or within an enclosed vehicle. A vicious dog may be off the owner's property if the owner complies with "Disposition of a Vicious Dog, Section g".
3. The owner of a potentially dangerous or vicious dog shall notify the Rio Dell Police Department, in writing, within two (2) working days if the dog in question, dies, is sold, transferred, or permanently removed from the city limits of Rio Dell.
4. Owners of potentially dangerous or vicious dogs shall notify in writing any person to whom the dog is sold that the dog is potentially dangerous or vicious.

Disposition of Vicious Dogs

In addition to the dispositions as set forth above, upon a determination by the hearing entity that a dog is a vicious dog the following shall apply:

1. A dog which has been determined to be vicious pursuant to the provisions of this ordinance shall not be licensed unless the owner or keeper of the vicious dog is eighteen (18) years of age or older and meets the following requirements:
 - a. Provide proof to the Animal Control Officer the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) covering any damage or injury which may be caused by the vicious dog during the period for which the licensing is sought.
 - b. The owner or keeper, at his or her own expense, and within two (2) working days of the receipt of the notice of determination that the dog is vicious shall provide the Rio Dell Police Department with two current color photographs of the dog which show the animal in a standing position.
 - c. The owner or keeper shall display a sign that visually depicts a menacing dog on his or her property warning that there is a vicious dog on the property. The sign shall be visible to the general public and approved by the Animal Control Officer.
 - d. The owner or keeper of the dog shall certify under penalty of perjury to all of the following:
 - i. The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the period for which licensing is sought, unless the owner or keeper shall cease to own or keep the dog prior to the expiration of that license.
 - ii. The owner or keeper shall, on or before the effective date of the license for which application is being made, have an approved enclosure for the dog on all property where the vicious dog will be kept or maintained.
 - iii. The owner or keeper shall notify the Rio Dell Police Department immediately upon discovery if the vicious dog is running at large, is unconfined, has attacked another domestic animal or a human, has died, has been sold, or transferred, or has been permanently removed from the city limits of Rio Dell. Immediately upon discovery shall mean as soon as is practical taking into consideration the circumstances, but in no event later than twenty-four (24) hours after the occurrence. \

- iv. If the vicious dog is sold, the owner or keeper shall provide the Rio Dell Police Department with the name, address, and telephone number of the new owner or keeper. It shall be unlawful to sell or give away a dog previously determined to be vicious unless the owner or keeper of the advises the new owner or keeper of the status of the dog in writing.
- e. All dogs determined to be vicious shall be confined in an enclosure as defined in Article 3 of this ordinance. It is unlawful for any owner or keeper to maintain a vicious dog upon any property which does not have an enclosure as defined in Article 3 of this ordinance.
- f. It is unlawful for the owner or Keeper to allow any vicious dog to be outside of the enclosure unless it is inside the dwelling of the owner or keeper or it is necessary for the owner or keeper to obtain veterinary care for the dog, to sell or give away the dog, or to comply with any directive of the Animal Control Officer with respect to the dog.
- g. In any case where a vicious dog is lawfully outside the enclosure, except in cases where it is inside the dwelling of the owner or keeper, the dog shall be securely muzzled and restrained, with a leash sufficient to restrain the dog, having a minimum tensile strength of 300 pounds and not exceeding three feet in length, and the dog shall be under the direct control and supervision of its owner(s) or keeper(s).
- h. The hearing entity may impose any additional conditions upon the ownership of the dog that protect the public health, safety and welfare.

Procedure for destruction of vicious dogs

- 1. A dog determined to be vicious may be destroyed by the Police Department when it is found, pursuant to a hearing in accordance with this ordinance, that the release of the dog would create a significant threat to the public health, safety, and welfare, or the owner or keeper is not able to or unwilling to comply with reasonable conditions placed upon the owner for th release of the dog.
- 2. An owner of a dog which has previously been determined to be a vicious dog violates the provisions of this code relating to the keeping of vicious dogs.
- 3. A dog which has previously been determined to be a vicious dog, when unprovoked, attacks, wounds, bites, or otherwise injures or kills any person.
- 4. A dog shall not be destroyed pursuant to Subsection 2 or Subsection 3 of "procedure for destruction of vicious dogs" without a hearing pursuant to this ordinance.

Ownership of vicious dogs prohibited

The owner of a dog determined to be a vicious dog may be prohibited by the Chief of Police from owning, possessing, controlling, or having custody of any dog for a period of up to three years, when it is found, after proceedings conducted pursuant to this ordinance, that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare.

Disposition of Public Nuisance Dogs

1. No person shall keep or maintain any dog in such a manner as to cause or permit the dog to be a public nuisance dog.
2. No owner or keeper of a dog shall fail to abate a nuisance created by the keeping of such dog when ordered to do so by the Animal Control Officer or other Peace Officer.
3. The hearing entity may impose any reasonable conditions upon the ownership of the dog which shall correct the circumstances which created the nuisance.
4. Any dog having been declared to be a public nuisance dog pursuant to the provisions of this ordinance shall be delivered to the Animal Control Officer for impoundment until such time as the owner or keeper shall have satisfied the Animal Control Officer that they have taken steps to abate the nuisance created by the keeping of the dog. Failure to take such steps to the satisfaction of the Animal Control Officer within five (5) working days following the impoundment of the dog and notice of the conditions for release imposed by the Animal Control Officer, shall result in forfeiture of ownership of said dog.
5. No dog may be euthanized or otherwise disposed of if the owner or keeper of the dog has sought judicial review of the determination that the dog was a public nuisance dog until that review has been completed. The owner or keeper of the dog shall be liable for the cost of the care and feeding of the pending the outcome of the judicial review and shall deposit monthly in advance the cost of such care and feeding as determined by the Animal Control Officer. Failure to make such deposit shall result in forfeiture of ownership of said dog after giving the owner or keeper five (5) days written notice of their failing to make the required deposit in advance. In the event the judicial review is favorable to the owner or keeper of the dog, the amounts paid for the care and feeding of the dog pending the judicial review shall be refunded.

Removal from list

If there are no additional instances of the behavior that caused the dog to be classified as potentially dangerous dog, or a nuisance dog, within a 36 month period from the date of that classification, the dog shall be removed from the list of potentially dangerous or nuisance dogs. The dog may, but is not

required to be, removed from the list of potentially dangerous or nuisance dogs prior to the expiration of the 36-month period of the owner or keeper demonstrates to the Chief of Police or his/her designee, that changes in circumstances or measures taken by the owner or keeper, such as training of the dog, have mitigated the risk to public safety.

Article 12 – Horses, Poultry, Other

Horses

No person shall drive, ride, lead or tie an animal on any sidewalk or allow any animal attached to any vehicle to stand across or on any crossing of any street or sidewalk or allow any animal to stand upon a public street or alley without being securely tied or under the control of its owner or manager, or stake out any animal in the public streets or parks for the purpose of allowing the animal to graze or any other purpose.

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Shelter

The owner of any equine shall provide adequate shelter which shall consist of a structure large enough for the animal to turn around in, with a roof, and shall have walls on at least three sides that offer protection from the weather.

Poultry/Livestock

Poultry and other domestic animals, including bovine and equine shall only be maintained on any property in accordance with the provisions of this ordinance, and subject to the provisions of the Rio Dell zoning ordinance, Section 17.25.050 in regards to allowable land use.

Authority to Seize or Kill Dog

Any dog entering any enclosed or unenclosed property wherein livestock or poultry are confined may be seized or killed by the owner or tenant of the property, or any employee or agent of the owner or tenant, and no action, civil or criminal, shall be maintained therefore against such owner, tenant, agent, or employee. The authority to kill a dog only applies if the animal is caught in the act of worrying, wounding, chasing or killing any livestock or poultry. This does not alleviate any responsibility in regards to the safe discharge of a firearm, nor does it intend to supercede or replace in state law in regards to the discharge of firearms, game laws, or animal cruelty.